

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

DUANE & VIRGINIA LANIER TRUST,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

SANDRIDGE MISSISSIPPIAN TRUST
I, et al.,

Defendants.

Case No. CIV-15-0634-SLP

MOTION TO SUBSTITUTE DEBORAH RATH AS LEAD PLAINTIFF

Movant Deborah Rath respectfully moves this Court for an order pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure to substitute Deborah Rath in place of deceased Lead Plaintiff Lawrence Ross.

1. Lead Plaintiff Ross died on or around June 28, 2017. Counsel for Lead Plaintiffs filed a notice and suggestion of death for Ross on February 1, 2018. Dkt. No. 162.

2. On December 7, 2017, Sonja Rath was appointed and authorized to act as Personal Representative of the Estate of Lawrence R. Ross (the “Estate”) by the Clerk of the Probate Court in Pima County, Arizona. Declaration of Jonathan Horne (“Horne Decl.”), Exhibit A.

3. On February 14, 2018, Sonja Rath appointed Deborah Rath as the Estate’s agent and attorney-in-fact for the limited purpose of prosecuting all claims arising from the

Estate's investment(s) in SandRidge Mississippian Trust I and SandRidge Mississippian Trust II. Horne Decl. Exhibit B.

4. Deborah Rath has retained Lead Counsel, The Rosen Law Firm, P.A., in connection with the Estate's claims in this action. *See* Horne Decl. Exhibit C. Lead Counsel has provided copies of the notice and suggestion of death to non-parties Sonja Rath and Deborah Rath. Horne Decl. ¶ 3.

5. If a party dies and the claim is not extinguished, the Court may order substitution of the proper party. *See* Fed. R. Civ. P. 25(a)(1). A motion for substitution may be made by any party or the decedent's successor or representative within 90 days after service of a statement noting the death. *Id.* A proper party for substitution under Rule 25(a)(1) is a person lawfully designated to represent the deceased party's estate, such as an appointed executor or administrator. *Sinito v. U.S. Dep't of Justice*, 176 F.3d 512, 516 (D.C. Cir. 1999).

6. Lead Plaintiff Ross's securities claims survive his death. *Mills v. Sarjem Corp.*, 133 F. Supp. 753, 761-62 (D.N.J. 1955) (executors of decedent's estate permitted to maintain decedent's federal securities law causes of action); *cf. In re Saxon Securities Litigation*, 644 F. Supp. 465, 471 (S.D.N.Y. 1985) ("The remedial aspect of 10b-5 dictates that the action should not abate at the death of the purchaser/seller.").

7. This substitution is timely and it will allow this action to proceed expeditiously.

8. Defendants did not oppose substantially similar relief requested in Plaintiff's prior Motion to Substitute Sonja Rath as Lead Plaintiff (Dkt. No. 163). The instant motion

is filed to cure deficiencies identified by the court in its Order denying that motion (Dkt. No. 164).

RELIEF REQUESTED

WHEREFORE, it is respectfully requested that the Court substitute Deborah Rath, as agent and attorney-in-fact for the Estate of Lawrence Ross, in place of deceased Lead Plaintiff Lawrence Ross.

Dated: February 15, 2018

Respectfully submitted,

/s/ Nicholas G. Farha

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February 2018, I electronically transmitted the foregoing **MOTION TO SUBSTITUTE DEBORAH RATH AS LEAD PLAINTIFF** to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the appropriate ECF registrants.

/s/ Nicholas G. Farha
Nicholas G. Farha